

BERNARD P. GENCORELLI

IBLA 79-144

Decided September 11, 1979

Appeal from decision of the Wyoming State Office, Bureau of Land Management, declaring bid deposits forfeited.

Affirmed.

1. Accounts: Refunds -- Oil and Gas Leases: Generally -- Oil and Gas Leases: Competitive Leases

Failure to execute a lease results in forfeiture of the bid deposit by the high bidder in a competitive oil and gas lease sale.

2. Notice: Generally -- Regulations: Generally -- Regulations: Binding on the Secretary -- Regulations: Force and Effect as Law

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations. Such regulations have the force and effect of law and are binding on the Department.

APPEARANCES: Bernard P. Gencorelli, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Bernard P. Gencorelli appeals from the letter decision dated December 22, 1978, of the Wyoming State Office, Bureau of Land Management (BLM), declaring bid deposits on parcels 10 and 11 of the September 27, 1978, competitive oil and gas lease sale forfeited because of the bidder's failure to comply with the regulations. The parcels were assigned serial numbers W 65399 and W 65400.

Short Investment Corporation and Rosalie Flanagan were originally declared high bidders for parcels 10 and 11, respectively. On October 6, 1978, BLM discovered that appellant's bids had been misplaced and were, in fact, the highest for the two parcels. By letter of October 11, 1978, BLM informed Short and Flanagan that appellant's bids would be accepted and that their bid deposits would be returned. No appeal was taken from that decision.

On November 21, 1978, BLM sent appellant a letter informing him that he was the highest bidder and must return the executed lease forms, the balance of the bonuses bid, the first year's rentals, and his proportionate share of the advertising costs within 15 days of receipt of the letter. On December 10, 1978, appellant replied that because his bids were mishandled, causing him to miss "some opportunities," he wished to withdraw his bids and have his deposits of \$415.84 and \$207.84 returned to him. BLM responded with the letter decision stating that the deposits are forfeited.

In a brief statement of reasons appellant complains that the mishandling of his bids caused the omission of his name from the list of parcel winners in the September 27, 1978, lease sale, and delayed lease issuance for at least 30 days. He asserts that these two conditions have prevented him from developing the parcels. He seeks the return of his bid deposits, totaling \$623.68.

[1] The controlling regulation, 43 CFR 3120.4-1, states: "If a bidder, after being awarded a lease, fails to execute it or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed of as other receipts under this act." This regulation is a codification of the conclusion reached by this Department in Midwest Oil Corp., IA-615 (Supp.) April 1, 1968. There a request for refund was denied on general principles of contract law even though the appellant's bid was based on an erroneous U.S. Geological Survey map.

The rationale for strict enforcement of the bid deposit requirements is set forth in North American Coal Corp., 74 I.D. 209 (1967). See also Lee E. Loeffler, 33 IBLA 18 (1977). It would be unfair to potential bidders of limited means if those bidders with greater capital resources were permitted to bid on many parcels and later decide which leases to execute and accept without penalty. Fred S. Ghelarducci, 41 IBLA 277 (1979).

[2] All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Juan Munoz, 39 IBLA 72 (1979). The regulation was duly promulgated June 13, 1970, 35 FR 9692, and has the force and effect of law. It is binding on the Department as well as appellant. St. Scholastica

Academy, 40 IBLA 175 (1979); Elizabeth Pagedas, 40 IBLA 21 (1979). By entering bids in the lease sale, appellant bound himself to comply with the regulations.

It is unfortunate that appellant's bids were misplaced and any delay caused thereby is regrettable. However, BLM was correct in accepting appellant's bids, and appellant was required either to execute the lease or forfeit his deposits. Fred S. Ghelarducci, *supra*; see Jack M. Chodar, 36 IBLA 324 (1978). Appellant has shown no grounds for relief.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Joan B. Thompson  
Administrative Judge

We concur:

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Anne Poindexter Lewis  
Administrative Judge

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Douglas E. Henriques  
Administrative Judge

